

From: Mia, Marcia

Sent: Wednesday, September 11, 2019 02:09 PM

To: Powell-Dickson, Antoinette

CC: Cox, John

Subject: RE: CONFERENCE CALL REQUESR re: FOIA Request EPA-HQ-2019-001669

In red.

Ex. 5 Deliberative Process (DP)

Marcia B Mia

Air Branch

Office of Compliance

2227A WJCS

U.S. Environmental Protection Agency

202-564-7042

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From: Powell-Dickson, Antoinette <Powell-Dickson.Antoinette@epa.gov>

Sent: Wednesday, September 11, 2019 8:39 AM

To: Mia, Marcia <Mia.Marcia@epa.gov>

Subject: RE: CONFERENCE CALL REQUESR re: FOIA Request EPA-HQ-2019-001669

Hi Marica,

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Jessica Christy <jchristy@edf.org>

Sent: Tuesday, September 10, 2019 8:53 PM

To: Powell-Dickson, Antoinette <Powell-Dickson.Antoinette@epa.gov>

Cc: Mia, Marcia <Mia.Marcia@epa.gov>; Newman, Maya <Newman.Maya@epa.gov>; Battle, Jernell <Battle.Jernell@epa.gov>; Cox, John <cox.john@epa.gov>; Peter Zalzal <pzalzal@edf.org>; Rosalie Winn <rwinn@edf.org>; Benjamin Levitan <blevitan@edf.org>

Subject: RE: CONFERENCE CALL REQUESR re: FOIA Request EPA-HQ-2019-001669

Greetings,

Thank you all so much for taking the time to chat with me today. I forgot to ask EPA which states are authorized implementers for this program, which states generally provide EPA with curtesy copies of compliance reports, and whether those states are consistent in what they provide EPA.

Performance Tests

EPA stated that all performance tests are submitted only through CEDRI and no CBI submissions are allowed for reports under this section. Thus, there are no paper copies to produce.

Semi-annual, Annual, and Annual for Sweeteners Reports

Hard copy reports submitted to HQ or regional offices will need to undergo a CBI review process which, for those who do not waive CBI claims, EPA anticipates may take up to six months. For those who do waive CBI claims, I understand EPA expects to begin producing those reports within two months and will continue producing reports, as they become available, on an interim basis. Additionally, if any CBI submissions were made separately from the CEDRI submission, I understand those will be either produced or, if not produced, will be noted as not produced in the records from OAQPS.

Further, I understand that states and tribes who are authorized implementers of this program only sometimes submit a curtesy copy of compliance reports to EPA or notify EPA that it has received the compliance reports. EPA does not have a clear understanding of the scope of the regulated community or the proportion of reports for which EPA does not receive a curtesy copy.

Correspondence

I understand that EPA will begin the search for responsive HQ correspondence immediately. This includes correspondence with industry and other outside correspondence, as well as correspondence internal to EPA. I understand that EPA will start its search with records that reference "OOOOa" and one of the search terms contained in EDF's request letter. EDF agrees, on a tentative basis to limit the specific word "compliance" to those instances where it is used within 10 words of "OOOOa," in order to limit the number of emails that appear in the search results due to signatures from OECA employees. EDF is reserving the right to remove this consent if it appears relevant correspondence is not captured by the search limitation.

For responsive records in the regional offices, I understand that search will begin after regional offices begin the CBI process for compliance reports located in those offices.

Currently, EDF does not anticipate EPA will search for any of the terms in EDF's request letter linked with any regulatory provision EPA provided in suggestion to EDF. However, EDF reserves the right to request EPA perform this search if it appears that the current search is not producing responsive records.

Productions

Finally, I understand that EPA anticipates being able to produce an interim set of records within two months. EPA will continue to provide records on an interim basis, with all the productions expected to be finished within six months.

Please let me know if I have missed anything or if EPA has a different understanding. Thank you again for taking the time to talk today. I will look forward to receiving the first interim production within two months. Please do not hesitate to reach out to me

if it will assist with production.

Cheers,

Jessica Christy

From: Powell-Dickson, Antoinette <Powell-Dickson.Antoinette@epa.gov>
Sent: Tuesday, September 10, 2019 8:30 AM
To: Jessica Christy <jchristy@edf.org>
Cc: Mia, Marcia <Mia.Marcia@epa.gov>; Newman, Maya <Newman.Maya@epa.gov>; Battle, Jernell <Battle.Jernell@epa.gov>; Cox, John <cox.john@epa.gov>
Subject: CONFERENCE CALL REQUESR re: FOIA Request EPA-HQ-2019-001669
Importance: High

Hello Ms. Christy,

EPA would like to schedule a half hour conference call with you to finalize the search terms for the above referenced FOIA. Are you available today, September 10, 2019, at either 11:00 am to 11:30 am (EST 1:00 pm to 1:30 pm) or 2:00 pm to 2:30 pm (EST 4:00 pm to 4:30 pm).

Please let me know which time is convenient for you and I will set up a conference call line.

Thank

Antoinette Powell-Dickson

From: Jessica Christy <jchristy@edf.org>
Sent: Friday, August 30, 2019 2:00 PM
To: Powell-Dickson, Antoinette <Powell-Dickson.Antoinette@epa.gov>; Mia, Marcia <Mia.Marcia@epa.gov>; Newman, Maya <Newman.Maya@epa.gov>; Battle, Jernell <Battle.Jernell@epa.gov>; Albergottie, Daniele <Albergottie.Daniele@epa.gov>
Cc: Peter Zalzal <pzalzal@edf.org>; Rosalie Winn <rwinn@edf.org>; Benjamin Levitan <blevitan@edf.org>
Subject: FOIA Request EPA-HQ-2019-001669

Greetings,

Thank you so much for chatting with my colleague, Ben Levitan, earlier this month. From

my understanding, there are two main concerns about the production.

The first is that some 0000a reports are now available through the CEDRI platform. EDF will download these reports and does not expect the agency to produce anything EDF is able to access in full and download from CEDRI. However, we understand that there are still a number of mailed-in reports, reports in regional offices, and other submissions not available through CEDRI that we do expect to be produced under this request. We do not agree to limit our request to what is available in CEDRI.

The second is related to the number of nonresponsive correspondence documents produced through the search parameters. EDF does not agree to limit our search terms to EPA's suggested approach of using the code of federal regulation cites. I understand that the majority of nonresponsive records pertain to capturing documents regarding "0000" rather than "0000a." I further understand that EPA believes it has found a way to omit those documents and this should greatly reduce the number of nonresponsive records.

Thank you again for reaching out regarding the search for responsive records and we look forward to receiving our first production. Please let me know when you anticipate being able to release documents.

Cheers,

Jessica Christy

Legal Fellow, Oil and Gas

Environmental Defense Fund

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Suite 300

Boulder, CO 80302

(303) 447-7234

jchristy@edf.org

From: Powell-Dickson, Antoinette <Powell-Dickson.Antoinette@epa.gov>

Sent: Thursday, August 15, 2019 4:53 PM

To: Benjamin Levitan <blevitan@edf.org>

Cc: Mia, Marcia <Mia.Marcia@epa.gov>; Newman, Maya <Newman.Maya@epa.gov>; Battle, Jernell <Battle.Jernell@epa.gov>; Albergottie, Daniele <Albergottie.Daniele@epa.gov>

Subject: FOIA Request EPA-HQ-2019-001669

Thank you Mr. Levitan for meeting with OECA to discuss clarifying FOIA request EPA-HQ-2019-0011669. This email will serve as confirmation of our discussion.

Request #1 - Copies of all reports submitted to EPA pursuant to Subpart 000a's reporting requirements.

The reports requested are now publicly available. EPA will direct EDF to the appropriate website to obtain the reports. There are currently over 800 reports in the system.

Request #2 - Copies of all internal correspondence between EPA and outside parties containing reference to the new source performance standards for the oil and gas sector.

During the processing of EPA-HQ-2018-001268, EDF's first 0000a request, the search terms used resulted in an over-collection of records. Approximately 40,000 records were collected during the search and 80% of the records were non-responsive and unrelated to Subpart 000a's or new source performance standards for the oil and gas sector.

In an effort to respond to your FOIA request EPA-HQ-2019-001669 as quickly as possible, we would like to propose the following search terms (each search term is listed separately for ease of discussion).

We have a list of regional custodians and the start date of the search will be November 21, 2017 with an end date of the date we submit the search request. Once we have the number of documents retrieved from the search we can provide a timeframe to complete the review. OECA has agreed to provide records on a rolling bases.

("40 C.F.R. §60.5420a(b) (9) (i)" OR

"40 C.F.R. §60.5422a(b)" OR

"40 C.F.R. §60.5420a(b)" OR

"0000a") w/10 ("variance*") OR

("40 C.F.R. §60.5420a(b) (9) (i)" OR

"40 C.F.R. §60.5422a(b)" OR

"40 C.F.R. §60.5420a(b)" OR "0000a") w/5 ("Comply" or "Compliance" or "compliant" or "complying" or "Complies")

We await your comments on the above proposed search terms. If you have any additional questions, please feel free to contact me.

Thank you,

Antoinette Powell Dickson

Antoinette Powell Dickson, Esq.

FOIA Coordinator/Records Manager

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